

The accused S. Starostka is concerned with the Auschwitz charge only / 2nd charge / see charge sheet. The charge is supported by allegations coming from 3 written statements / transcript vol 17 pages 8,9,10, / and from a number of life witnesses / transcript vol 5 page 5, vol 7 page 6, vol 7 page 20, vol 7 page 24, vol 8 page 16, vol 9 page 16, vol 10 page 5, vol 10 page 17, vol 11 page 19, vol 12 page 5, vol 13 page 21, vol 13 page 24. Further ref to vol nos will be given in abbreviation e.g. 7/13 referring to vol 7 page 13.

These allegations refer to instances which may be classified under following headings:

1/ selections for the gas chamber

a/ selecting 7/24, 17/8, 17/9

b/ taking down numbers of people selected 10/17

2/ ill-treating 9/16, 10/5, 13/21, 17/8, 17/9, 17/10

Remarks on the evidence produced against the accused by the prosecution

i/ The prosecution has called 18 life witnesses women and men who have been at Auschwitz - Berkenau /women's compound/ and at Belsen/. Out of those 18 witnesses - 13 were requested to identify the accused in the dock. Out of those 13 witnesses 12 have identified the accused Starostka as lager altester in Berkenau and Belsen - all of them were directly under her orders in the women's compound for a period not shorter than one year.

Although all of them were asked after identification parade to indicate what they know about each accused they have recognised -

- 5 have only said she was lageraltester without even saying if she was a bad or good one, 5/5, 7/6, 7/20, 12/5, 13/24
- 2 made short statements without implicating any offending activities 8/16, 11/19,
- 1 stated the accused took down numbers of those selected for the gas chamber 10/17,
- 4 have accused her of committing a " war crime " in the meaning understood in the indictment 7/24, 9/16, 10/5, 13/21,

ii/ The prosecution has put before the Court 3 written statements. The Judge Advocate in his summing up has rightly directed the Court in respect of those 3 unsworn statements in the following manner:

in general:

- 51/4 "you need no words from me to realise that you must be careful in dealing with those affidavits"

in particular:

- statement 17/8:

51/35 - "that seems to me to be a statement full of expressions which are far away from proving actual facts. I put that forward and I am sure you will not treat really a quiet statement of fact which is convincingly accurate in regard to what it deals with."

- statement 17/9:

51/36 - " I do not know quite why those last remarks should be included in a document which is to be used in a Court of Law but there they are and you may think they are not very temperate and perhaps somewhat out of place in regard to deciding what is the truth as to what she / the accused / was doing in relation to that particular witness".

- statement 17/10:

51/36 - " There must be an end to some of those allegations but I leave it to you to decide whether those things could have taken place. They are all generalities and they are in the strongest possible language you could speak

/ Remarks.....



Remarks on the testimony of the accused:

On the other hand quoting the explanations given by the accused to some of the specific allegations contained in some parts of those 3 unsworn statements the Judge Advocate made the following remarks:

- 51/36 - "this woman's testimony / stated the accused / - and here you may agree with her / remark by the J.A.G. / - is quite unreliable".
- 51/36- "Are not her /the accused/ explanations in many cases quite reasonable and do not you think in some cases at any rate they are preferable to this rather wild and too impressive statement".
- 51/36 - "Her /the accused's/explanation about the hair and the ribbons; which seems almost fantastic as an accusation may strike you as reasonable and probably quite true".

The evidence given on oath by the accused and her witnesses in respect of the allegations and her behaviour in Auschwitz Concentration Camp is contained in vol 39/10 - 40/23, and tends to establish the following main points:

- 1/ her appointment as functionary at Auschwitz:
  - a/ 39/11-12 as block altester - appointed by the Germans because she was the only one to speak German in a bunch of newly arrive Polish women. This was when Berkenau was growing up as a Camp. Functionaries were normally appointed by the Germans and prisoners had no option. 11/21, 6/14 6th and 7th question from top/
  - b/ 39/14 as lager altester - she was pressed by some prisoners to try and get this job. The prisoners who were by a great majority not Germans wanted to have lager altesters of not German nationality. The same incident happened at Belsen whereto the accused was transferred in January 1945 from Auschwitz / see dr. Bimko 6/14 last question.
- 2/ her part in the gas chamber selections:
  - a/ selecting denied by the accused 39/21 and explained in the summing up by the defence 49/26. Allegations in 17/8 and 9 described generally by the J.A.G. as wild and unreliable.
  - b/ writing down numbers of those selected - explained by the accused 39/17.
- 3/ illtreatment:
  - a/ allegations 9/16 criticised by the J.A.G. : -"then again you may think this extravagance of language comes into the picture"
  - b/ allegations 17/8, 17/9, 17/10 criticised in respect of their reliability by the J.A.G. as mentioned before /see page 1 above
  - c/ allegations 10/5 and 13/21 rebutted by the accused her self vol 39/20 ~~xxx~~ para 6 and 5 respectively.

In my submission the question of:

- A - a guilty part of hers in gas selections cannot be accepted on the ground that:
  - 1/ she was only a prisoner
  - 2/ therefore had no power to decide about life or death of an other pris.
  - 3/ this was in the power of a SS woman or SS doctor.
  - 4/ no witness or deponent ever alleged any specific action, like it has often been the case in respect of SS personel, of pointing at or individually chosing a prisoner, or beating and forcing those selected to keep quiet or move into lorries which had to take them to the gas, - in one word to participate in making the selection a success.
  - 5/ the only statement saying what the accused was doing during the selections is made by Rosenowaig 10/17 " Stenia took down numbers of those" The accused explanation to this is 39/17
  - 6/ if she really had a guilty part in those selections she would naturally deny it just like all the SS women in the dock have denied in Court any knowledge whatsoever of a selection being hel. for this purpose and as all have denied the use of force to control the prisoners at those selections or having helped the doctors in picking up the victims.
  - 7/ there would have been no need for her to tell the Court that she often knew what the selections were for and that she wanted to write the / numbers



numbers down, to be able to save some of the unfortunate selected, or there would be no sense in the corroboration in this respect by a witness 40/12. 3rd para from bottom.

B - The question of illtreating amounts it self really to this:

- 1/ 3 unsworn violent statements raising the highest suspicion against their reliability 17/8, 17/9, 17/10, / see page 1 above/.
- 2/ evidence of Klein 9/16 containing a specific allegation
- 3/ evidence of Glinowiecki 10/5 containing a general allegation.
- 4/ evidence of Laskar 13/21 alleging collaboration with the SS and denouncing - answered largely by the accused several times in examination in chief and x- examination.

To sum up what I have tried to bring forward in this petition is this:

- i/ as the prosecution has not proved against the accused any guilty part in selections for the gas chamber
- ii/ as the beating alleged
  - a/ has not resulted in death or serious injury to any prisoner
  - b/ has not been carried out with any sort of implement/stick etc/
  - c/ is proved by the prosecution in very small amount
- iii/ the majority of the prosecution witnesses though all were under her orders for more than a year had nothing to say against her
- iv/ the prosecution witness dr. Bimko 6/14 said " I did know when Starostka came / to Belsen / quite a number of prisoner expressed a wish that they would prefer her to be a lager altster instead of the old one"

I strongly submit that the testimony of the accused should be believed and accepted and therefore the sentence of ten years imprisonment pronounced by the Court is unjustified.

The arguments in mitigation on the other hand are:

- 1/ she has been sentenced to death by the Gestapo for activities hostile to the Germans in Poland,
- 2/ she has been imprisoned by the Germans for two years
- 3/ she has been in concentration camps for 3 years
- 4/ she has already been imprisoned for 3/2 months

And finally though witnesses called by the prosecution were generally not answering the requirements as in the Rules of Evidence and for the obvious reason that it was impossible for them after what they were through in those camps and in this respect the prosecution had great difficulties in selecting and securing good witnesses, in the same way it must be emphasised that the defence starting 6 months after the liberation of Belsen was in greater even difficulty not only in finding required witnesses, but even most essential witnesses. Many left the camp at Belsen for unknown destination. This in my submission is one of the most important points that is especially in the case of this accused, the impossibility of getting hold of known but untraced witnesses has forced the defence to produce witnesses who were only able to corroborate a part of the accused testimony.

The same sentence of ten years imprisonment has been passed by the Court against 6 other female accused all SS women, all accused of specific killing and specific illtreating.

And here on one hand is Starostka First a Victim of War, an internee herself an outlaw from the point of view of the Germans, and on the other free women German citizens, women of greatly higher authority.

Lt A. Jedrzejowicz  
*A. Jedrzejowicz*  
 Defending Officer appointed.